



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

June 16, 2023

PUBLIC ACCESS OPINION 23-009
(Request for Review 2023 PAC 76309)

FREEDOM OF INFORMATION ACT:
Police Reports Concerning Public Employee
Arrested and Charged with Crimes
Against a Minor are Not Exempt from
Disclosure in their Entireties under
the Personal Privacy Exemption

Ms. Katy Smyser
Senior Producer, Investigations
NBC5 Chicago and Telemundo Chicago
454 North Columbus Drive
Chicago, Illinois 60611-5555

Ms. Joanna Harris
Administrative Records Clerk/FOIA Officer
South Beloit Police Department
519 Blackhawk Boulevard
South Beloit, Illinois 61080

Dear Ms. Smyser and Ms. Harris:

This binding opinion is issued pursuant to section 9.5(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(f) (West 2020)). For the reasons discussed below, this office concludes that the City of South Beloit (City) Police Department (Department) violated the requirements of FOIA by denying in its entirety Ms. Katy Smyser's FOIA request for police reports concerning a public school teacher who was arrested and charged with criminal offenses against a minor student.

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BACKGROUND

On March 22, 2023, Ms. Smyser submitted a FOIA request to the Department, on behalf of NBC5 Chicago and Telemundo Chicago, stating:

Please provide me with all documents you have concerning Kevin D. Thompson, DOB approximately 11/1981, a former teacher and coach at South Beloit Junior High School who was charged in approximately September or October of 2009 with indecent solicitation, criminal sexual assault, and battery involving a student. I am requesting arrest reports, supplementary reports, investigative reports, witness interviews, suspect interviews and documentation of any evidence gathered in the case. I am also requesting similar documents for any other incidents in which the South Beloit Police Department arrested Mr. Thompson.^[1]

In a letter dated March 29, 2023² that was transmitted via e-mail on March 28, 2023,³ the Department denied the request in its entirety pursuant to section 7(1)(c) of FOIA.⁴ The Department asserted that "[d]ue to the status of the victim as a juvenile at the time of the offense, and due to the nature of the offense, disclosure would constitute a clearly unwarranted invasion of personal privacy."⁵ The Department additionally stated that "[t]here were no other recorded incidents involving Kevin D. Thompson within the South Beloit Police Department."⁶

¹E-mail from Katy Smyser, Senior Producer, Investigations, NBC5 Investigates; Telemundo Chicago Investigate; NBC5 Responds; Telemundo Chicago Responde, NBC5 Chicago and Telemundo Chicago, to Adam Truman, Chief of Police and Tracy Patrick, City Clerk, City of South Beloit (March 22, 2023).

²Letter from Joanna Harris, Administrative Records Clerk/FOIA Officer, South Beloit Police Department, to Katherine Smyser, Senior Producer, Investigations (March 29, 2023), at [1].

³E-mail from Kim McKee, Administrative Records Clerk, [South Beloit Police Department], to [Katy] Smyser (March 28, 2023).

⁴5 ILCS 140/7(1)(c) (West 2021 Supp.), as amended by Public Acts 102-752, effective January 1, 2023; 102-753, effective January 1, 2023; 102-776, effective January 1, 2023; 102-791, effective May 13, 2022; 102-1055, effective June 10, 2022.

⁵Letter from Joanna Harris, Administrative Records Clerk/FOIA Officer, South Beloit Police Department, to Katherine Smyser, Senior Producer, Investigations (March 29, 2023), at [1].

⁶E-mail from Kim McKee, Administrative Records Clerk, [South Beloit Police Department], to [Katy] Smyser (March 28, 2023).

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On April 7, 2023, Ms. Smyser replied to the Department, disputing its denial by contending that it "has not shown how the victim in this case can be identified, even after the juvenile victim's name and any other identifying information have been redacted."⁷ She argued that "[t]he public is entitled to the remaining information," as it was public knowledge that Mr. Thompson had been convicted and sentenced for his crimes.⁸ On April 11, 2023, the City's outside counsel responded by maintaining that the denial was proper. He stated: "My review of the requested police reports reveal that the reports contain detailed, sensitive and extremely personal statements regarding assault and battery of a sexual nature against a juvenile."⁹ The attorney argued that the denial is supported by an Illinois Appellate Court decision, *McGee v. Kelley*, 2017 IL App (3d) 160324, 95 N.E.3d 1179 (2017).

On April 19, 2023, Ms. Smyser submitted a Request for Review contesting the denial of her request. She stated that she did "not believe that South Beloit has demonstrated how the nature of the crime – and the police department's investigations – would disclose the identity of the victim when the names and other identifying information are redacted."¹⁰ Ms. Smyser also explained:

These records are important, because the individual arrested in the case – Kevin D. Thompson – was originally charged with a total of nine criminal counts, including two counts of indecent solicitation/criminal sexual assault; two counts of indecent solicitation/aggravated criminal sexual abuse; one count of indecent solicitation of a child through the internet, and four counts of battery/making physical contact.

I am seeking to understand how Thompson – through an Alford Plea -- was ultimately able to plead down to two non-sex-related crimes (one count of misdemeanor battery in a public place and one count of misdemeanor harassment by electronic communication), for which he was sentenced to only two days in jail, plus 18 months' probation. The South Beloit Police

⁷E-mail from Katy Smyser to South Beloit Police Department (April 7, 2023).

⁸E-mail from Katy Smyser to South Beloit Police Department (April 7, 2023).

⁹E-mail from Clayton Zamudio, Associate Attorney, Sosnowski Szeto, LLP, to [Katy] Smyser (April 11, 2023).

¹⁰E-mail from Katy Smyser, Senior Producer, Investigations, NBC5 Investigates; Telemundo Chicago Investiga; NBC5 Responds; Telemundo Chicago Responde, NBC5 Chicago and Telemundo Chicago, to Leah Bartelt, Acting Public Access Counselor, Office of the Illinois Attorney General (April 19, 2023).

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Department's narrative and other documentation concerning the details and nature of the criminal allegations and charges, including the department's investigative material, are key to my understanding this conviction and sentencing on these lesser charges.^[11]

On April 24, 2023, the Public Access Bureau sent a copy of the Request for Review to the City's attorney. Along with a copy of the Request for Review, the Public Access Bureau also sent the City's attorney a letter requesting unredacted copies of any withheld records for this office's confidential review, together with a detailed explanation of the legal and factual bases for the applicability of the section 7(1)(c) exemption.¹²

On May 3, 2023, the City's attorney provided this office with a response letter¹³ that was transmitted via e-mail¹⁴ along with copies of the requested records. On that same date, this office forwarded a copy of the Department's answer to Ms. Smyser and notified her of her opportunity to reply to that answer.¹⁵ On May 12, 2023, Ms. Smyser notified this office by e-mail that she would stand on her original complaint.¹⁶

ANALYSIS

Section 1 of FOIA (5 ILCS 140/1 (West 2020)) declares that it is "the public policy of the State of Illinois that all persons are entitled to full and complete information regarding the affairs of government and the official acts and policies of those who represent them

¹¹E-mail from Katy Smyser, Senior Producer, Investigations, NBC5 Investigates; Telemundo Chicago Investiga; NBC5 Responds; Telemundo Chicago Responde, NBC5 Chicago and Telemundo Chicago, to Leah Bartelt, Acting Public Access Counselor, Office of the Illinois Attorney General (April 19, 2023).

¹²Letter from Joshua M. Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General, to Clayton Zamudio, Associate Attorney, Sosnowski Szeto, LLP (April 24, 2023), at 2.

¹³Letter from Clayton L. Zamudio, Sosnowski Szeto LLP, to Illinois Attorney General's Office, Attn: Joshua M. Jones (May 3, 2023[3]).

¹⁴E-mail from Megan Reff, Paralegal, Sosnowski Szeto, LLP, to [Joshua] Jones [Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General] (May 3, 2023).

¹⁵Letter from Joshua M. Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General, to Katy Smyser, Senior Producer, Investigations, NBC5 Chicago and Telemundo Chicago (May 3, 2023).

¹⁶E-mail from Katherine Smyser (NBCUniversal) to Joshua Jones [Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General] (May 12, 2023).

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as public officials and public employees consistent with the terms of this Act." Under FOIA, "[a]ll records in the custody or possession of a public body are presumed to be open to inspection or copying. Any public body that asserts that a record is exempt from disclosure has the burden of proving by clear and convincing evidence that it is exempt." 5 ILCS 140/1.2 (West 2020). If a requested record "contains information that is exempt from disclosure under this Section, but also contains information that is not exempt from disclosure, the public body may elect to redact the information that is exempt. The public body shall make the remaining information available for inspection and copying."¹⁷

Section 7(1)(c) of FOIA

Section 7(1)(c) of FOIA exempts from disclosure "[p]ersonal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information." Section 7(1)(c) defines "unwarranted invasion of personal privacy" as "the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information." Section 7(1)(c) contains an exception which provides that "[t]he disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy."

A public body's assertion that the release of information would constitute a clearly unwarranted invasion of personal privacy is evaluated on a case-by-case basis. *Chicago Journeymen Plumbers' Local Union 130 v. Dep't of Public Health*, 327 Ill. App. 3d 192, 196 (1st Dist. 2001). The language of the phrase "clearly unwarranted invasion of personal privacy" evinces a strict standard to claim the exemption. *Schessler v. Dep't of Conservation*, 256 Ill. App. 3d 198, 202 (4th Dist. 1994). Illinois courts consider the following factors in determining whether disclosure of information would constitute an unwarranted invasion of personal privacy: "(1) the plaintiff's interest in disclosure, (2) the public interest in disclosure, (3) the degree of invasion of personal privacy, and (4) the availability of alternative means of obtaining the requested information." *National Ass'n of Criminal Defense Lawyers v. Chicago Police Dep't*, 399 Ill. App. 3d 1, 13 (1st Dist. 2010).

In its answer to this office, the Department relied heavily on *McGee* to support its withholding of the records at issue in their entirety under section 7(1)(c). In *McGee*, a sheriff's office denied the plaintiff's request for "any and all documents prepared in connection with his indictment that led to his conviction of aggravated criminal sexual assault[.]" *McGee*, 2017 IL

¹⁷5 ILCS 140/7(1) (West 2021 Supp.), as amended by Public Acts 102-752, effective January 1, 2023; 102-753, effective January 1, 2023; 102-776, effective January 1, 2023; 102-791, effective May 13, 2022; 102-1055, effective June 10, 2022.

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App (3d) 160324, ¶3, 95 N.E.3d at 1180. The Illinois Appellate Court affirmed the trial court's ruling that disclosure would constitute a clearly unwarranted invasion of personal privacy. *McGee*, 2017 IL App (3d) 160324, ¶20, 95 N.E.3d at 1183. The City emphasized the following portion of the *McGee* decision:

The plaintiff fails to address the court's finding that disclosure of the police reports would result in an unwarranted invasion of personal privacy of the victim of sexual assault. Instead, he relies on his blanket statement that only identifying and personal information of the witnesses could be redacted from the reports. Consequently, this leaves us to speculate as to what his interest is in the disclosure. [Citation.] (Emphasis omitted.)^[18]

The City then sought to apply *McGee* to Ms. Smyser's FOIA request as follows:

The issue with Ms. Smyser's request is the same as the issue the 3rd District Court of Appeals addressed in *McGee*, namely, she fails to address the City's position that disclosure of the police reports would result in an unwarranted invasion of personal privacy of the victim of sexual assault and grooming because even redacting the juvenile's name would still leave the details of the offenses/encounters and would allow a reader to identify the juvenile involved with minimal effort or investigation.

Our review of the unredacted records reveals that the police reports contain detailed, sensitive, and extremely personal statements regarding the sexual assault and battery, just as in *McGee*. The degree of invasion of personal privacy of the juvenile victim is substantial. The City acknowledges that there are instances where details of a police report may be redacted to protect the privacy interests of private individuals without a risk of revealing that person's identity. This is not one of those situations. The report here contains such detailed information that a party could discern the juvenile's identity by relatively limited inquiry. Disclosure of such a report would fail to adequately protect privacy interests as intended by the FOIA. Release of the records here

¹⁸Letter from Clayton L. Zamudio, Sosnowski Szeto, LLP, to Illinois Attorney General's Office Attn: Joshua M. Jones, [Deputy Bureau Chief, Public Access Bureau] (May 3, 2023), at [2] (quoting *McGee*, 2017 IL App (3d) 160324, ¶18, 95 N.E.3d. at 1183).

McGee. Accordingly, the degree of personal privacy of a juvenile victim of grooming and sexual assault outweighs any public interest in disclosure.¹⁹

The City's reliance on *McGee* is misplaced, because the facts and circumstances of that case are starkly different from the facts and circumstances here. As noted above, the requester in *McGee* sought copies of records concerning his own conviction for aggravated criminal sexual assault and aggravated battery. *McGee*, 2017 IL App (3d) 160324, ¶3, 95 N.E.3d at 1180. The court found the requester's personal interest to be "minimal" because he "already received the substance of the information contained in the police reports by other means, as the victim testified at his jury trial [citation]." *McGee*, 2017 IL App (3d) 160324, ¶18, 95 N.E.3d at 1183. The court also found the public interest in disclosure to be "slight[.]" stating: "The public has an interest in monitoring law enforcement to ensure it is acting in the public's interest. However, it is doubtful that the public has any interest in the actual details of the victim's sexual assault and battery." *McGee*, 2017 IL App (3d) 160324, ¶18, 95 N.E.3d at 1183. In contrast, the victim's personal privacy interests were substantial, as the records contained "detailed, sensitive, and extremely personal statements regarding the sexual assault and battery." *McGee*, 2017 IL App (3d) 160324, ¶19, 95 N.E.3d at 1183. The court agreed with the defendant's argument that:

"A victim's right to be treated with fairness and respect for their dignity and privacy precludes their attacker from obtaining police reports containing the violations perpetrated against the victim. This respect for the victim's dignity or privacy prevents the [p]laintiff from sharing with [his] fellow inmates the details of the assault, reliving the thrill of [his] attack on the victim or any other dissemination of the details of the attack." *McGee*, 2017 IL App (3d) 160324, ¶19, 95 N.E.3d at 1183 (quoting defendant's brief).

The court thus concluded that disclosure of the records would constitute a clearly unwarranted invasion of the victim's personal privacy. *McGee*, 2017 IL App (3d) 160324, ¶20, 95 N.E.3d at 1183.

Turning to the records at issue in this matter, the victim similarly has a substantial personal privacy interest in the unredacted records, which include both general descriptions and explicit details of the conduct that led to Mr. Thompson being arrested for indecent solicitation of a child and battery. As the City explained, the victim was thirteen years old at the time of the incident, and the records identify the victim and the victim's relatives by name.

¹⁹Letter from Clayton L. Zamudio, Sosnowski Szeto, LLP, to Illinois Attorney General's Office Attn: Joshua M. Jones, [Deputy Bureau Chief, Public Access Bureau] (May 3, 2023), at [2-3].

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However, the City failed to support its claim that redactions could not suffice to shield the identity of the victim. Unlike in *McGee*, where the requester clearly knew the identity of his victim, there is no indication that the victim's identity from this 2009 case is public knowledge, and neither Ms. Smyser's FOIA request nor her submissions to this office contain any identifying information about the victim. To the contrary, Ms. Smyser expressly asked that the City/Department "provide the records with the redactions to the juvenile victim's name and other identifying information."²⁰ The City's argument that the police reports contain such detailed information that redactions could not suffice to protect the victim's identity is generalized and conclusory. This office's review of the records found that although they contain certain identifying details about the victim, most portions of the records either do not contain identifying information or the identifying details are amenable to discrete redactions in a manner that would protect the victim's privacy while revealing meaningful information about the offending teacher, the school district's handling of the matter, and the police investigation. Disclosure of a de-identified record generally does not constitute an unwarranted invasion of the personal privacy of the subject of the record. *See Bowie v. Evanston Community Consolidated School District No. 65*, 128 Ill. 2d 373, 381 (1989) (analyzing the applicability of a prior version of the section 7(1)(c) exemption²¹ to student test score data and holding "where, as here, individual identifying information can be redacted and the record scrambled, preventing a clearly unwarranted invasion of personal privacy, the record must be disclosed.").

Most of the information in the reports at issue describes the arrestee's alleged conduct and the interactions between the arrestee and the victim in general terms, and several of the reports contain no description of the underlying incidents. The existence of some explicit details of the encounters between the victim and the arrestee in the requested records does not justify a complete denial of those records. *See, for example, University of Kentucky v. Kernel Press, Inc.*, 2021 Ky. LEXIS 126, *37, 620 S.W.3d 43, 60 (Ky. 2021) ("[V]ictims of sexual assault at the hands of a public university professor have more than a *de minimis* interest in the confidentiality of the personally identifiable information they provide to enable the university to investigate the alleged misconduct. While this privacy interest must be recognized and protected, it cannot be the basis for wholesale shielding of public records."). Based on this office's review, the limited instances in which explicit details are recited could be redacted, allowing for disclosure of the general descriptions of Mr. Thompson's conduct and information about the police investigation.

²⁰E-mail from Katy Smyser to South Beloit Police Department (April 7, 2023).

²¹Ill. Rev. Stat. 1985, ch. 116, par. 207(b) (exempting from disclosure "[i]nformation which, if disclosed, would constitute a clearly unwarranted invasion of personal privacy, unless such disclosure is consented to by the individual subjects of such information.")

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With respect to the public and private interests at issue, unlike the requester seeking the details of the aggravated criminal sexual assault and aggravated battery for which he was convicted, Ms. Smyser is a Senior Producer for television news outlets. She explained that her personal interest in the responsive records is to understand why a public school teacher was able to plead down to lesser offenses given the gravity of the charges against him. Unlike in *McGee*, where the victim testified at trial, there was no trial here because Mr. Thompson took a plea agreement.²² Therefore, Ms. Smyser's interest in disclosure was not ameliorated by the limited information made available during the judicial proceedings. Moreover, Ms. Smyser's news-gathering purpose aligns with the public interest in disclosure. The responsive police reports shed light on the actions of the offending teacher as well as public employees and officials of both the school district and the Department. There is a legitimate public interest in disclosure of police records concerning the arrest of and criminal charges against a public school teacher for offenses against one or more students. *See, for example, Brouillet v. Cowles Pub. Co.*, 114 Wash. 2d 788, 798, 791 P.2d 526, 532 (Wash. 1990) ("Sexual abuse of students is a proper matter of public concern because the public must decide what can be done about it. The public requires information about the extent of known sexual misconduct in the schools, its nature, and the way the school system responds in order to address the problem.").

To be sure, as the court in *McGee* indicated, there is not an apparent public interest in disclosure of any graphic and salacious details of an alleged sexual offense. *See State Journal-Register v. University of Illinois. Springfield*, 2013 IL App (4th) 120881, ¶¶46-58, 994 N.E.2d 705, 716-19 (2013) (where newspaper had already published numerous articles setting forth the salient facts of sexual misconduct committed by public university athletic coaches, witness statements depicting the sexual misconduct in explicit detail were exempt under section 7(1)(c), but coaches' statements describing the preceding events were subject to disclosure). When the victim is a minor, the public interest in detailed descriptions of sexual offenses is at its lowest. Ill. Att'y Gen. Pub. Acc. Op. No. 21-002, issued February 17, 2021, at 8 (minimal public interest in disclosure of details of alleged sexual offense against a minor where no arrests were made or charges filed and alleged offender was a private citizen). As discussed above, however, the records contain significant information that is not graphic or salacious. The arrestee's conduct is primarily described in general terms throughout the vast majority of the reports, and disclosure of this information would shed light on the interests described by Ms. Smyser even with graphic and salacious details redacted.

As to the fourth factor, the City did not argue or demonstrate that Ms. Smyser has alternative means of obtaining the police reports or the information contained therein.

²²Jeff Kolkey, *List of Winnebago County teachers charged with sex crimes swells*, ROCKFORD REGISTER STAR (September 26, 2012, 9:14 a.m.), <https://www.rrstar.com/story/lifestyle/public-safety/2012/09/26/list-winnebago-county-teachers-charged/42661346007/>.

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The results of the four-factor balancing test clearly demonstrate that the responsive police reports are not exempt from disclosure in their entirety under section 7(1)(c). There is a compelling public interest in disclosure of information reflecting the nature of a public school teacher's criminal misconduct involving a student and how the matter was handled by authorities. The victim's right to privacy may be protected by redacting the victim's personally-identifying information and any graphic or salacious details of a sexual offense. Therefore, the Department failed to sustain its burden of proving by clear and convincing evidence that the responsive records are exempt from disclosure in their entirety under section 7(1)(c) of FOIA.

FINDINGS AND CONCLUSIONS

After full examination and giving due consideration to the information submitted, the Public Access Counselor's review, and the applicable law, the Attorney General finds that:

1) On March 22, 2023, Ms. Katy Smyser submitted a FOIA request to the City of South Beloit Police Department, on behalf of NBC5 Chicago and Telemundo Chicago, seeking copies of police reports concerning a public school teacher who was arrested and charged with several criminal offenses involving a student in 2009.

2) In a letter dated March 29, 2023, that was transmitted via e-mail on March 28, 2023, the Department denied the request in its entirety pursuant to section 7(1)(c) of FOIA.

3) On April 19, 2023, Ms. Smyser submitted a Request for Review contesting the Department's denial. The Request for Review was timely filed and otherwise complies with the requirements of section 9.5(a) of FOIA (5 ILCS 140/9.5(a) (West 2020)).

4) On April 24, 2023, the Public Access Bureau sent a copy of the Request for Review to the Department and requested unredacted copies of the withheld records for this office's confidential review, and a detailed written explanation of the legal and factual bases for the applicability of the section 7(1)(c) exemption.

5) On May 3, 2023, the attorney for the City provided this office with the requested materials.

6) On that same date, this office forwarded a copy of the City's answer to Ms. Smyser and notified her of her opportunity to reply. On May 12, 2023, Ms. Smyser notified this office that she wished to stand on her original complaint.

7) Section 7(1)(c) of FOIA exempts from disclosure "[p]ersonal information contained within public records, the disclosure of which would constitute a clearly unwarranted

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invasion of personal privacy." Section 7(1)(c) defines "unwarranted invasion of personal privacy" as "the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information."

8) There is a legitimate public interest in disclosure of information concerning criminal offenses committed by a public school teacher against a minor student. The student's privacy interests may be protected by redacting the student's identifying information and graphic or salacious details of any sexual offense. The Department failed to sustain its burden of proving by clear and convincing evidence that the responsive records are exempt from disclosure in their entirety under section 7(1)(c).

Therefore, it is the opinion of the Attorney General that the South Beloit Police Department violated the requirements of FOIA by denying Ms. Katy Smyser's Freedom of Information Act request in its entirety. Accordingly, the Department is hereby directed to take immediate and appropriate action to comply with this opinion by providing Ms. Smyser with copies of the responsive records, subject to the redaction of the victim's identifying information and limited graphic details under section 7(1)(c) as outlined above. Under separate cover, this office will provide the Department with a copy of the records which identifies the graphic details that would constitute a clearly unwarranted invasion of personal privacy if disclosed. The Department may also redact (1) information that meets the plain language of the definition of "private information"²³ under section 7(1)(b) of FOIA,²⁴ and (2) information that would

²³Section 2(c-5) of FOIA (5 ILCS 140/2(c-5) (West 2020)) defines "private information" as:

unique identifiers, including a person's social security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses. Private information also includes home address and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person.

²⁴5 ILCS 140/7(1)(b) (West 2021 Supp.), as amended by Public Acts 102-752, effective January 1, 2023; 102-753, effective January 1, 2023; 102-776, effective January 1, 2023; 102-791, effective May 13, 2022; 102-1055, effective June 10, 2022 (exempting from disclosure "[p]rivate information, unless disclosure is required by another provision of this Act, a State or federal law, or a court order.").

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unavoidably identify members of the public who provided the Department with information relating to the investigation under section 7(1)(d)(iv) of FOIA.²⁵

This opinion shall be considered a final decision of an administrative agency for the purposes of administrative review under the Administrative Review Law. 735 ILCS 5/3-101 *et seq.* (West 2020). An aggrieved party may obtain judicial review of the decision by filing a complaint for administrative review with the Circuit Court of Cook or Sangamon County within 35 days of the date of this decision naming the Attorney General of Illinois, Ms. Katy Smyser, NBC5 Chicago, and Telemundo Chicago as defendants. *See* 5 ILCS 140/11.5 (West 2020).

Very truly yours,

KWAME RAOUL
ATTORNEY GENERAL

By: 
Brent D. Stratton
Chief Deputy Attorney General

cc: Mr. Clayton Zamudio
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²⁵ 5 ILCS 140/7(1)(d)(iv) (West 2021 Supp.), as amended by Public Acts 102-752, effective January 1, 2023; 102-753, effective January 1, 2023; 102-776, effective January 1, 2023; 102-791, effective May 13, 2022; 102-1055, effective June 10, 2022 (exempting from disclosure information that would "unavoidably disclose the identity of a confidential source, confidential information furnished only by the confidential source, or persons who file complaints with or provide information to administrative, investigative, law enforcement, or penal agencies[.]").

CERTIFICATE OF SERVICE

Steve Silverman, Bureau Chief, Public Access Bureau, hereby certifies that he has served a copy of the foregoing Binding Opinion (Public Access Opinion 23-009) upon:

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by causing a true copy thereof to be sent electronically to the addresses as listed above and by causing to be mailed a true copy thereof in correctly addressed, prepaid envelopes to be deposited in the United States mail at Chicago, Illinois on June 16, 2023.



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